

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

EFREM ZEMBLISH HARRIS,

Defendant.

**Case No. 02-CR-0088-CVE
(05-CV-0143-CVE-SAJ)**

OPINION AND ORDER

Now before the Court is defendant's Rule 59(e) Motion to Reconsider Judgment Against Movant (Dkt. # 124). Defendant asks the Court to amend its Opinion and Order affirming defendant's conviction and sentence (Dkt. # 122). A Rule 59(e) motion to alter or amend the judgment, sometimes referenced as a motion "to reconsider,"¹ is warranted where there is (1) an intervening change in the controlling law, (2) new evidence previously unavailable, or (3) the need to correct clear error or prevent manifest injustice. Servants of the Paraclete v. Does, 204 F.3d 1005, 1012 (10th Cir. 2000) (internal citation and quotation marks omitted); see Adams v. Reliance Standard Life Ins. Co., 225 F.3d 1179 (10th Cir. 2000). "Thus, a motion for reconsideration is appropriate where the court has misapprehended the facts, a party's position, or the controlling law. . . . It is not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing." 204 F.3d at 1012.

¹ "The Federal Rules of Civil Procedure do not recognize a 'motion to reconsider.' Instead the rules allow a litigant subject to an adverse judgment to file either a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e) or a motion seeking relief from the judgment pursuant to Fed. R. Civ. P. 60(b)." Van Skiver v. United States, 952 F.2d 1241, 1243 (10th Cir. 1991).

In its June 14, 2006 Opinion and Order, the Court concluded that defendant failed to demonstrate entitlement to relief on any claim asserted in his 28 U.S.C. § 2255 motion. Defendant has submitted nothing in his Rule 59 motion to establish the impropriety of that determination. Since defendant has not presented evidence of newly discovered law or facts and has failed to establish either clear error or a need to correct manifest injustice, the Court's June 14, 2006 Opinion and Order stands.

IT IS THEREFORE ORDERED that defendant's motion to reconsider (Dkt. # 124) is hereby **denied**.

DATED this 28th day of June, 2006.


CLAIRE V. EAGAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT